United Nations S/2002/173

Security Council

Distr.: General
15 February 2002

Original: English

Letter dated 14 February 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Samoa submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

Letter dated 13 February 2002 from the Permanent Representative of Samoa to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I have the honour to enclose herewith the report of Samoa to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

The Government of Samoa stands ready to provide any further information as may be requested by the Committee.

(*Signed*) Tuiloma Neroni Slade
Ambassador
Permanent Representative

Enclosure

Report of Samoa on actions taken by the Government to implement Security Council resolution 1373 (2001)

Introduction

As part of its contribution to the international efforts to eradicate terrorism in all its forms, including activities that contribute to terrorist acts, Samoa has either signed or become a party to a number of relevant international conventions and protocols relating to terrorism.

Samoa is a party to the 1963 Convention on Offences and Certain Other Acts Committed on Board Aircrafts (Tokyo Convention); the 1970 Montreal Supplementary Protocol for the Suppression of Unlawful Acts at Airports Serving International Civil Aviation; the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft; the 1971 Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal Convention); and the 1991 Montreal Convention on Marking of Plastic Explosives for the Purpose of Detection.

Since the despicable terrorist attacks in the United States on 11 September 2001 and in response to the requirements of the Security Council Resolution 1373, the Government has submitted to Parliament draft legislation aimed at the prevention and suppression of terrorism. This is now proceeding through the Bills Committee stage. During his visit to New York in November to address the UN General Assembly, the Prime Minister of Samoa, the Honourable Tuila'epa Sailele Malielegaoi, signed the 1999 International Convention for the Suppression of the Financing of Terrorism.

Legislative measures

A number of legislative measures relating to terrorist activity and organised crime, as outlined below, have been in place prior to 11 September 2001. The new and principal legislative measure, the Prevention and Suppression of Terrorism Bill, is currently before Parliament and is expected to become law before June 2002.

The **Prevention and Suppression of Terrorism Bill 2001** would make it an offence punishable by imprisonment from 5 to 15 years to finance or assist in the financing of terrorist acts.

Clause 21 of the Bill would empower the Supreme Court to order the freezing of funds, where such funds have been found to be collected for the purpose of committing or financing a terrorist act. The Attorney General may also apply to the Supreme Court to freeze funds that are suspected of being collected for the purpose of committing terrorist acts. Under the **Criminal Procedure Act 1972**, any person may apply to the Court for a seizure warrant over any property that is believed to be evidence of any offence that may have been committed.

With respect to money laundering, Samoa's legal and operational framework is in place to detect, report and prosecute money laundering offences as prescribed under the **Money Laundering Prevention Act 2000**. Terrorism activity including proceeds obtained directly or indirectly from terrorist activity are covered under the Act. Financial institutions are required under the terms of the legislation to report any suspicious transactions.

The Money Laundering Prevention Act is based on the Commonwealth model law and incorporates the FATF forty recommendations on money laundering. The Act is an extensive piece of legislation when compared to other jurisdictions in the Pacific region. The Act adequately covers Samoa's compliance with UN Security Council Resolution 1373 as far as money laundering and related terrorism activities are concerned. The Act addresses, among other things, the disclosure, reporting, penalties, freezing and forfeiture of properties, mutual assistance with foreign States and extradition and rendition of fugitive offenders. The Act also enables the Supreme Court of Samoa to freeze any assets that are alleged to be the proceeds of crime.

Guidelines have been adopted by the financial entities affected by the Money Laundering Prevention Act for the reporting of suspicious financial transaction to the Central Bank. The Central Bank may apply for a court order to freeze funds in any account once there is established confirmation of a suspicious transaction passing through such an account.

The **Crimes Ordinance 1961** covers many offences that would fall under the definition of terrorism and provides penalties ranging from monetary fines to life imprisonment to capital punishment.

The **Arms Ordinance 1960** prohibits dealing in arms and ammunition including the importation of arms and ammunition, except where a licence is granted. The Police are allowed the necessary powers to seize firearms or ammunition held by licensed dealers and to have them impounded. The Ordinance prohibits the possession of any firearms or ammunition without a licence or permit. The possession or carriage of arms, ammunition or explosives are prohibited except for proper and lawful purposes, and the Police have the necessary powers of search and seizure. A related measure, the **Police Offences Ordinance 1961**, makes it an offence to be armed with a dangerous weapon without a lawful purpose, and carries a maximum penalty of one year's imprisonment.

Measures have been taken to strengthen the exchange of information between the Samoan Police and other Police and law enforcement agencies in the Pacific and overseas, including with Interpol and the US Federal Bureau of Investigation.

Preparatory arrangements have also begun towards the establishment of a financial intelligence unit to liaise with overseas financial intelligence services in combating trans-national financial crime.

The Minister of Immigration under the **Immigration Act 1966** may deny safe haven to undesirable aliens particularly those who may pose a danger to the peace, order and security of the country. The Prevention and Suppression of Terrorism Bill now before Parliament will empower the Police to arrest aliens and foreigners suspected of having committed a terrorist act. Furthermore, the Bill will allow the Supreme Court extra territorial jurisdiction to hear and determine any matter arising under the Immigration Act irrespective of whether it takes place in or outside Samoa.

Any terrorist act that may endanger an aircraft is an offence under the **Civil Aviation Act 1998**. This Act also prohibits the taking of firearms, explosives and other arms on to an aircraft.

In respect of providing assistance with criminal investigations or proceedings relating to the financing or supporting terrorist acts, the **Extradition Act 1974**

provides for the arrest and return of any person in Samoa who is accused of an extradition offence to an extradition country, or of any person who is alleged to be unlawfully at large after conviction of an extradition offence. The authorities in Samoa may arrest and return the offender should the act of terrorism be an "extradition offence" of the requesting State.

Another relevant legislative measure is the **Permits and Passports Act 1978** which prohibits anyone from landing in Samoa unless he or she produces on arrival a valid and current passport which establishes to the satisfaction of the immigration authorities the nationality and identity of that person.

Contact points

The Government of Samoa has designated the Ministry of Foreign Affairs and its Permanent Mission in New York as the national focal points for information or assistance in connection with matters arising under Security Council Resolution 1373, and has informed the Counter-Terrorism Committee accordingly.

13 February 2002